

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

**Motion To Stay This Matter Or To Dismiss Without Prejudice For Lack Of
Subject Matter Jurisdiction, Whichever Is Proper**

Hearing Requested

1. I was notified today by telephone that this matter is being investigated by the Department of Labor, without limitation.
 2. The Sarbanes-Oxley Act requires that the Department of Labor review the whole record of this matter. See, Procedures for Handling Sarbanes-Oxley Matters.
 3. Federal courts are deprived of subject matter jurisdiction in Sarbanes-Oxley matters and over issues therein until administrative remedies are exhausted. Daly v. Citigroup Inc., 939 F.3d 415, 427-428 (2d Cir. 2019), cert. denied, 140 S. Ct. 1117, 206 L. Ed. 2d 185 (2020).
 4. Respectfully, this Court must immediately either stay this matter pending the government investigation or dismiss this matter without prejudice because the matter and issues therein are administratively active at the Department

of Labor. For these reasons, federal courts do not yet have jurisdiction, as explained by the Second Circuit in Daly, cert. denied.

5. I am filing the same motion in the Court of Appeals.

Dated: January 13, 2022

Respectfully Submitted,

/s/ Thomas Rimini
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Defendant shall file a letter by January 26, 2022 indicating whether they intend to file a brief opposing Plaintiff's motion or are willing to stipulate to the dismissal of the case without prejudice.

SO ORDERED.
Date: January 19, 2022
New York, New York


JOHN P. CRONAN
United States District Judge

CERTIFICATE OF SERVICE

I, Thomas Rimini, hereby certify that today, January 13, 2022, I served a copy of the foregoing upon the person identified below.

P. Kramer Rice
Steven Pearlman
Eddie Young
Mark Batten

c/o Proskauer
11 Times Sq.
New York, NY 10036

/s/ Thomas Rimini
Thomas Rimini